

REMARKS

Claims 1, 5, and 7-24 remain in this application. Claims 2-4 and 6 were previously canceled. Claims 1 and 21-23 are hereby amended. New claim 24 has been added. All other claims remain the same. Reconsideration of the claims as presented is requested.

Applicants acknowledge with appreciation the courtesies extended to the undersigned and inventor Barsade during the telephone interview of February 23, 2009 during which the merits of the office action and the disclosures of Sullivan et al. and Agee et al. were discussed.

Claim 1 has been amended to specify that the system requires a “payment processing gateway” having the functionality and features set forth in subsection b. of the claim. Subsection c. has been amended to further define the information pathway between the transaction client logic engine and the payment processing gateway. Subsection d. has been amended to further define the information pathway between the third party fee calculation client logic engine and the payment processing gateway. Subsection e. has been amended to replace a redundant “determines” step with a “provides” step concerning authorization and fulfillment data. Subsection f. has been amended to specify that at least one of the nodes is a computer or server. Applicants submit that no new matter has been added by way of amendment. Support for the added matter is found in the specification as originally filed (pg. FIGS. 3, 11, pg. 25, ln 16 to pg. 26, ln 3; pg. 33, ln 20 to pg. 34, ln 7).

Claims 21-23 have been amended to add some of the same language added to the respective subsections of claim 1 and to add the amendments to the preambles thereof as suggested by Examiner. Support for the added subject matter is as set forth herein.

Claim 24 has been added to specify, “the financial network comprises an acquirer bank, association or issuer bank.” Applicants submit that no new matter has been added by way of amendment. Support for the added matter is found in the specification as originally filed (pg. 24, ln 21 to pg. 25, ln 15).

Claims 1, 5, and 7-23 stand rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter for failure to recite computer-readable medium. Insofar as it may apply to the present claims, this rejection is traversed.

The preamble of claims 21-23 have been amended as suggested by examiner. Claim 1 has been amended to specify, “at least one node is a computer or server”. Accordingly, each independent claim now requires the presence of program (logic engine) on a device.

Applicants respectfully submit that this rejection has been overcome and request that it be withdrawn.

Claims 21-23 stand objected to due to formal grammatical issues. Applicants have amended the claims as suggested by Examiner. Applicants respectfully submit that this objection has been overcome and request that it be withdrawn.

Claims 1, 5 and 7-21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al. (U.S. Publication No. 2003/0093320) in view of Agee et al. \*(U.S. Publication No. 2003/0097303). Examiner acknowledges, “Sullivan fails to disclose placing the tax system as an intermediary between buyer and seller with a payment processing gateway such that the tax system receives transaction data from the payment processing gateway.” Examiner then relies upon Agee et al. as disclosing, “placing the tax system as an intermediary between buyer and seller with a payment processing gateway such that the tax system receives transaction data from the payment processing gateway.” Insofar as it may apply to the present claims, this rejection is traversed.

As applicants have previously noted, the system of Sullivan et al. is a tax auditing and compliance system. As Examiner has acknowledged, Sullivan et al. fails to disclose placing a tax system as an intermediary between buyer and seller with a payment processing gateway such that the tax system receives transaction data from the payment processing gateway. Examiner relies upon Agee et al. as disclosing this missing element.

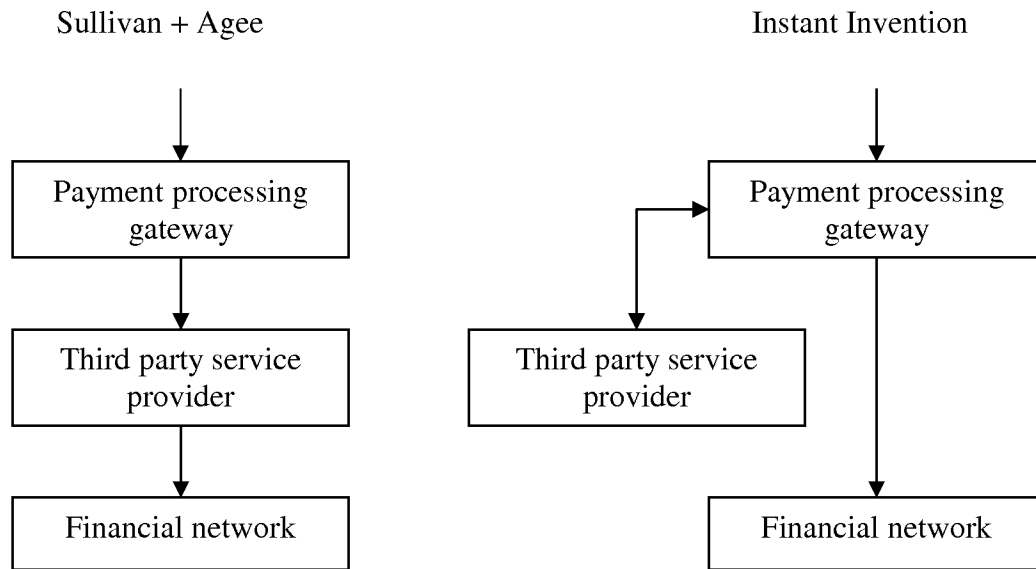
Applicants respectfully submits that the prophetic combination of the tax compliance system of Sullivan et al. with the tax payment system of Agee et al. results in a prophetic system different than the instantly claimed system. Applicants agree with Examiner that Agee et al., in fact, places the tax payment system (the third party service provider) as an intermediary between the buyer and the seller. That is a key distinction from the instantly claimed system. In all embodiments (FIGS. 1B, 2B, 3B, 3D, and 7B; Para. [0053], [0055], [0058], [0072], [0084], [0086]), wherein Agee et al. discloses a “payment processing gateway” in combination with a

“third party service provider” (the tax system), the information and data transmission pathways go from the merchant to the payment processing gateway to the third party service provider and then outward to the financial network. In no instance, does the payment processing gateway of Agee et al. communicate directly with the financial network whenever the “third party service provider” is present.

On the other hand, the instant claims specify that the “transaction client logic engine” and the “third party fee fulfillment client logic engine” (both of which can be considered part of “third party service provider” system) communicate with the payment processing gateway. Such a system is generally depicted in instant FIG. 11. They do not communicate directly with the financial network. Instead, it is the instant payment processing gateway that communicates with the financial network. Due to the differences in data transmission pathways between the prophetic system and the instant system, there are commensurate differences in the logical steps and data content. The instant logic required to achieve such differences in data flow, to manipulate the data, provide calculation and determination of third party fees and to effect fulfillment of third party fees are different than as disclosed or suggested by Sullivan et al. in combination with Agee et al.

Instant claim 1 specifies, “a payment processing gateway ... that: transmits to a transaction client logic engine one or more transaction data information packets related to one or more wide area network transactions between the first and the second party; receives from the transaction client logic engine or a third party fee fulfillment client logic engine one or more information data packets comprising authorization and fulfillment data for the transfer of funds; and transmits to a financial network the one or more information data packets comprising authorization and fulfillment data for the transfer of funds.” The instant transaction client logic engine and third party fee fulfillment client logic engine “transmit to the payment processing gateway one or more information data packets comprising authorization and fulfillment data for the transfer of funds.”

In comparison, the instant payment processing gateway communicates with the financial network, but the payment processing gateway of Agee et al. does not. This is because the authorization and fulfillment data of Agee et al. is transmitted to the financial network and not the payment processing gateway. The graphic below depicts this key distinction.



With regard to claim 21, Sullivan does not disclose or suggest a transaction client logic engine that “receives from a payment processing gateway one or more transaction data information packets related to one or more wide area network transactions between a first party and a second party... wherein the transaction client logic engine resides on a node of a wide area network and at a **different locale** than the first party and second party.” The third party fee calculation logic engine of Sullivan requires direct communication with the merchant’s/seller’s node. There is no payment processing gateway between the consumer and merchant of Sullivan, in particular a payment processing gateway between the node of the transaction client logic engine and the nodes of the consumer and merchant.

When the disclosure of Agee et al. is combined with Sullivan et al., the prophetic combination fails to disclose or suggest a transaction client logic engine that is “adapted to receive from a third party fee fulfillment client logic engine one or more information data packets comprising authorization and fulfillment data for the transfer of funds and to transmit said one or more information data packets to the payment processing gateway.” This is because the third party service provider of Agee et al. transmits the data directly to the financial network rather than back to the payment processing gateway.

Applicants respectfully submit that the prophetic combination of Sullivan et al. and Agee et al. fails to disclose or suggest a system as claimed. Applicants submit that this rejection has been overcome and request that it be withdrawn.

Claims 22-23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al. Insofar as it may apply to the instant claims, this rejection is traversed.

With regard to claim 22, which is directed to a third party fee calculation client logic engine, Applicants submit that Sullivan et al. does not disclose or suggest such logic engine wherein said logic engine receives “one or more information packets from a transaction client logic engine, said one or more information packets from the transaction client logic engine having been transmitted to the transaction client logic engine by a **payment processing gateway**” and transmits “to the transaction client logic engine, to a third party fee fulfillment client logic engine, or to a payment processing gateway a transaction data information packet including said third party fees owed.” The system of Sullivan et al. fails to disclose the required payment processing gateway and the specified pathway and information content.

With regard to claim 23, which is directed to a third party fee fulfillment client logic engine, Applicants submit that Sullivan et al. does not disclose or suggest such logic engine wherein said logic engine “determines the third party fees owed on a transaction between the first and the second party; provides authorization and fulfillment data for the third party fees owed on the transaction between the first and the second party; and transmits to a payment processing gateway or the transaction client logic engine one or more information data packets comprising authorization and fulfillment data for the transfer of funds.” The system of Sullivan et al. fails to disclose the required payment processing gateway and the specified pathway and information content.

Accordingly, Sullivan does not disclose the invention as claimed. Applicants respectfully submit that this rejection has been overcome and request that it be withdrawn.

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In view of all the foregoing, Applicants respectfully submit that they have made a diligent effort to place the application in form for allowance. An early notice thereof is respectfully requested.

Respectfully submitted,

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